

# State of California

## SECRETARY OF STATE

### **CONDITIONAL APPROVAL OF USE OF CERTAIN *HART INTERCIVIC* DIRECT RECORDING ELECTRONIC AND OPTICAL SCAN VOTING SYSTEMS**

I, MARK L. KYLE, Undersecretary of State of the State of California, do hereby certify that:

1. *Hart InterCivic* of Austin, Texas ("Vendor"), has requested approval for use in California elections of its eSlate voting system Version 3.4 consisting of BOSS Version 3.5.4, Ballot Now Version 2.3, Servo Version 2.0.10, Rally Version 1.2.0, Tally Version 3.2.0, eSlate 3000 Version 2.3.8 and JBC 1000 Version 2.3.8 to be used in conjunction with Kodak i830 (Central Scanner) and Fujitsu 4099 (Central Scanner) as well as its Procedures for eSlate Direct Recording Electronic and Ballot Now Optical Scan voting systems, submitted on or about September 10, 2004.
2. The voting systems described above have been federally qualified as evidenced by the assigned NASED Number N-1-04-12-12-005, dated September 2, 2004.
3. The voting systems have been determined to be in compliance with California law by the State's Voting System Technical Expert, with the addition of certain security enhancements as indicated below.
4. The request for approval of the voting systems as described in Paragraph 1, was considered at a duly noticed public hearing held September 14, 2004, at Sacramento, California.
5. The Voting Systems and Procedures Panel and the State's Voting System Technical Expert have recommended that the request for approval be granted, with certain conditions.

6. *Hart InterCivic's* eSlate voting system Version 3.4 consisting of BOSS Version 3.5.4, Ballot Now Version 2.3, Servo Version 2.0.10, Rally Version 1.2.0, Tally Version 3.2.0, eSlate 3000 Version 2.3.8 and JBC 1000 Version 2.3.8 to be used in conjunction with Kodak i830 (Central Scanner) and Fujitsu 4099 (Central Scanner) as well as its Procedures for eSlate Direct Recording Electronic and Ballot Now Optical Scan voting systems, are hereby approved for use subject to the following terms and conditions:

- a. No substitution or modification of the voting systems described in Paragraph 1 shall be made with respect to any component of the voting systems, including the Procedures submitted on or about September 10, 2004, until the Secretary of State has been notified in writing and has determined that the proposed change or modification does not impair the accuracy and efficiency of the voting systems sufficient to require a re-examination and approval;
- b. No additional software developed by the Vendor other than that specifically listed in this certification shall be installed on a computer running BOSS Version 3.5.4, Ballot Now Version 2.3, Servo Version 2.0.10, Rally Version 1.2.0 or Tally Version 3.2.0;
- c. The Secretary of State shall successfully complete testing of the Kodak i830 and Fujitsu 4099 with the eSlate voting system v. 3.4 by October 5, 2004;
- d. Vendor shall submit to the Secretary of State edited Procedures for use with eSlate to require that a copy of the results be posted outside each polling place by September 27, 2004, or a later date as otherwise specified in writing by the Secretary of State;
- e. Provisional ballots shall only be cast using the Ballot Now voting system;
- f. The Voting System described in Paragraph 1 can be used only if the requestor complies with the security measures that apply to it that are contained in the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems*, as further clarified by the Secretary of State's memorandum dated May 14, 2004, and any other agreement between the vendor and the Secretary of State;



- g. The Voting System described in Paragraph 1 can be used only in the Counties of Orange, and only if the county using the Voting System complies with the security measures that apply to the county as contained in the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems*, as further clarified by the Secretary of State's memorandum dated May 14, 2004, and any other agreement between the county and the Secretary of State;
- h. The Voting System described in Paragraph 1 can be used only if the county using the Voting System submits to the Secretary of State for approval by September 17, 2004, a Technical Security Plan and a Poll Worker Training Plan, that include addressing the "Additional Changes to Technical Security Plans and CA Procedures" recommended on Page 2 of the report of the State's Voting System Technical Expert dated August 2, 2004, which is incorporated herein by reference. These plans are required pursuant to Paragraphs II.B.4.b.(4) and II.B.5.c.(1) of the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems*, as further clarified by the Secretary of State's memorandum dated May 14, 2004 and other agreements between the counties and the Secretary of State;
- i. The Voting System described in Paragraph 1 shall not be used after July 1, 2006, or such earlier date as provided for by statute, unless it is modified to include an accessible, voter-verified paper audit trail and is approved or certified for use by the Secretary of State with such a feature;
- j. The Secretary of State reserves the right, with reasonable notice to Vendor and to the counties using any of the voting systems, to modify the Procedures used with any of the voting systems and to impose additional requirements with respect to the use of any of the systems if the Secretary of State determines that such modifications or additions are necessary to enhance the accuracy, reliability or security of any of the voting systems. Such modifications or additions shall be deemed to be incorporated herein as if set forth in full;

- k. Any county using any voting system described in Paragraph 1 shall, prior to such use, file with the California Secretary of State a copy of its Election Observer Panel Plan;



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, this 17th day of September, 2004.

A handwritten signature in blue ink, appearing to read "Mark L. Kyle", is written over the printed name.

MARK L. KYLE  
Undersecretary of State